

EXTENSIONS OF REMARKS

DISAPPROVING A RULE SUBMITTED BY THE DEPARTMENT OF THE INTERIOR

SPEECH OF

HON. BILL JOHNSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 2017

Mr. JOHNSON of Ohio. Mr. Speaker, the Resolution of Disapproval under the Congressional Review Act that we consider today, if enacted, would void the Stream Protection Rule (SPR). In light of an independent analysis of the potential impacts of the rule including the loss of at least one third of existing coal mining jobs, this resolution is absolutely critical for our Nation's coal miners, their communities, and the related industries that support and rely on coal mining.

If enacted, the joint resolution disapproving the SPR would bar the Office of Surface Mining, Reclamation and Enforcement (OSM) from reissuing the rule in substantially the same form, or issue a new rule that is substantially the same as the SPR, unless specifically authorized by subsequently enacted legislation. The SPR represents a near-complete regulatory re-write by adding, amending or modifying 475 different regulations under the Surface Mining Control and Reclamation Act (SMCRA) program. The unlawful and offending features of the rule include impermissibly duplicating and conflicting with other federal and state laws; diminishing the exclusive regulatory jurisdiction of States with approved programs under SMCRA; interfering with the primary governmental responsibility SMCRA delegates to States for developing, issuing and enforcing regulations for surface coal mining and reclamation operations within their borders; applying to underground mining operations standards and requirements intended for surface mining operations despite the distinct differences between surface and underground mining; and, requiring changes to approved state programs without a demonstration that the state program is no longer effective in meeting the purposes of SMCRA. Therefore, any rule which includes any of these components is substantially the same as the SPR for purposes of the Congressional Review Act.

An example of impermissible duplication or conflict with other federal and state laws or the authorities of other agencies would be a recently completed biological opinion and memorandum of understanding (MOU) between OSM and the U.S. Fish and Wildlife Service, the SPR allows the U.S. Fish and Wildlife Service to effectively veto any SMCRA permit simply by withholding approval. Issuing SMCRA permits is the exclusive province of SMCRA regulatory authorities, which in most cases are the States with approved SMCRA programs. Nothing in SMCRA or the Endangered Species Act (ESA) gives the U.S. Fish and Wildlife Service the power to disapprove, veto, or otherwise withhold a SMCRA permit.

Any rule subsequently promulgated by OSM which gives the U.S. Fish and Wildlife Service the authority to directly or indirectly disapprove SMCRA permits would be substantially the same as the SPR and therefore impermissible.

There are many other provisions which overlap, duplicate, or conflict with the requirements of other state and federal laws, which is prohibited by Section 702 of SMCRA. For example, the SPR violates both the Clean Water Act (CWA) and SMCRA by claiming for OSM the authority not only to enforce the CWA, but to also superimpose regulations that duplicate, conflict with and override CWA programs. Similarly, OSM vastly expanded the applicability of the ESA by requiring states and operators to account for species proposed for listing as threatened or endangered, which runs counter to the intent of the ESA and would have circumvented the rulemaking process established in the Administrative Procedures Act. Such self-deputization and usurpation of authority is a cornerstone of the SPR and any future rulemaking by OSM which attempts to duplicate, usurp, conflict with, or otherwise overlap with the existing requirements of other state and federal laws and the authorities of other state and federal agencies would be substantially the same as the SPR.

The SPR includes dozens of provisions which diminish the states' authority under SMCRA. Because of the wide diversity in physical conditions across the nation's coal fields, Congress expressly delegated to the states the authority for developing and tailoring SMCRA's requirements to those conditions. A good example of how the rule tramples the states' authority is its attempt to set a national definition for "material damage to the hydrologic balance outside the permit area." With the diversity in physical conditions and hydrology across the states and even within a state, it defies commonsense to promulgate a federal definition. It also robs the states of their delegated authority to tailor their rules in a manner that is suitable for meeting that statutory objective. To make matters worse, the rule precludes states from making appropriate adjustments on how SMCRA objectives should be achieved for distinct types of operations such as surface or underground mines. The rule is replete with examples of the mindset that only Washington knows best. Ironically, it's the states that possess the vast experience of regulating 97 percent of the coal mines in this country since SMCRA was passed in 1977. A rule that attempts to repeat this "one-size-fits-all" model would be substantially the same as the SPR.

IN HONOR OF SABU J.R. SHAKE,
THE PAISANO OF THE YEAR

HON. JIMMY PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 2017

Mr. PANETTA. Mr. Speaker, I rise today to honor Sabu J.R. Shake, the Paisano of the

Year, for all that he has done for our community on the central coast of California.

The fourth son of Isabella Shake and the late Sabu Shake, Sr. and brother to Benji, David, Chris, Angelo, and Tene, Sabu was born and grew up in Monterey, California. He is the proud father of five children and grandfather of two.

From a young age, Sabu understood the value of hard work. He worked at the family restaurant, Old Fisherman's Grotto, as a busboy and worked his way up to become a maître d', cashier, and manager. Through this experience, he learned all aspects of the restaurant business.

Building on his early experience in the hospitality business, Sabu and his brother Chris opened The Fish Hopper restaurant on the historic Cannery Row in 1995. With the huge success of that restaurant, Sabu opened another Fish Hopper in Kona, Hawaii and, recently with Chris, Scales Seafood & Steaks on the Fisherman's Wharf in Monterey.

While Sabu is a pillar in the business community, he is also a steadfast servant to the community he calls home.

As a past board member of the Boys & Girls Club and current member of the Paisano Club, Chaine des Rotisseurs, Compari Club, Sheriff's Advisory Council, and Italian American Cultural Center Foundation, he has demonstrated an unwavering commitment to community service.

In memory of his father, Sabu Shake, Sr., Sabu organized the first Sabu's Safari to raise money for The Salvation Army's Monterey Peninsula Corps in 2007. Today, the annual gala is attended by close to 500 people and raises thousands of dollars for The Salvation Army. To date, this event has raised more than \$1,725,000.

In 2012, Sabu initiated a Turkey Drive challenge by reaching out to friends and business colleagues for donations to purchase turkeys for people in need during the holidays. The Turkey Drive has become an annual tradition which provides nearly 1,500 turkeys every year.

Sabu also hosts an annual Christmas Toy Drive. Through that event each year, nearly 300 toys are collected for The Salvation Army to give to children during the holidays.

Following Hurricane Iselle, which hit Hawaii in 2014, Sabu raised more than \$15,000 for The Salvation Army in Hawaii to aid recovery efforts. Later that fall, Sabu hosted the first annual Red Kettle Kickoff for The Salvation Army at The Fish Hopper in Kona, Hawaii and it was a huge success.

Due to his incredible generosity, The Salvation Army gave Sabu the M. Temple Elliott award and The Others Award, which is the highest national award given to a civilian by The Salvation Army.

Mr. Speaker, I know the whole U.S. House of Representatives joins me in honoring and congratulating Sabu J.R. Shake on being chosen as the Paisano of the Year.

Thank you, Sabu, for your service to our Central Coast and nation.

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